

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

NANETTE LITHERLAND,)
)
Petitioner,)
)
v.) No. 4:20-cv-00630-ACL
)
CHRIS MCBEE,)
)
Respondent.)

MEMORANDUM AND ORDER

This matter comes before the Court on the motion of petitioner Nanette Litherland for leave to proceed in forma pauperis. (Docket No. 7). Upon review of the financial affidavit, the Court has determined that petitioner is unable to pay the filing fee. *See* 28 U.S.C. § 1915. Therefore, the motion will be granted.

Petitioner has also filed a motion for appointment of counsel. (Docket No. 2). In civil cases, a pro se litigant does not have a constitutional or statutory right to appointed counsel. *Ward v. Smith*, 721 F.3d 940, 942 (8th Cir. 2013). *See also Stevens v. Redwing*, 146 F.3d 538, 546 (8th Cir. 1998) (stating that “[a] pro se litigant has no statutory or constitutional right to have counsel appointed in a civil case”). Rather, a district court may appoint counsel in a civil case if the court is “convinced that an indigent [litigant] has stated a non-frivolous claim...and where the nature of the litigation is such that [litigant] as well as the court will benefit from the assistance of counsel.” *Patterson v. Kelley*, 902 F.3d 845, 850 (8th Cir. 2018). When determining whether to appoint counsel for an indigent litigant, a court considers relevant factors such as the complexity of the case, the ability of the pro se litigant to investigate the facts, the existence of conflicting testimony,

and the ability of the pro se litigant to present his or her claim. *Phillips v. Jasper Cty. Jail*, 437 F.3d 791, 794 (8th Cir. 2006).

After reviewing these factors, the Court finds that the appointment of counsel is not warranted at this time. Petitioner has demonstrated, at this point, that she can adequately present her claims to the Court. Furthermore, respondent has not yet been given the opportunity to reply to the petition. The Court will entertain future motions for appointment of counsel as the case progresses, if appropriate.

Accordingly,

IT IS HEREBY ORDERED that petitioner's motion for leave to proceed in forma pauperis (Docket No. 7) is **GRANTED**.

IT IS FURTHER ORDERED that petitioner's motion for appointment of counsel (Docket No. 2) is **DENIED** at this time.

Dated this 29th day of June, 2020.



ABBIE CRITES-LEONI
UNITED STATES MAGISTRATE JUDGE